

## **EXHIBIT 2**

**Rudowitz, Andrew J.**

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**From:** Rudowitz, Andrew J.  
**Sent:** Thursday, May 13, 2021 1:07 PM  
**To:** 'Black, Armine'; Casey, Christopher H.; Pollack, Jeffrey S.; Kulik, Sarah O'Laughlin; Kaufman, Noah J.; 'Nicholas A. Rendino'  
**Cc:** 'Michael.Goldsmith@doj.ca.gov'; 'Laura.Namba@doj.ca.gov'; 'Richard.Schultz@Illinois.gov'; 'jeremy.kasha@ag.ny.gov'; 'saami.zain@ag.ny.gov'; 'arlene.leventhal@ag.ny.gov'; 'ksturgis@ncdoj.gov'; 'Jsutton2@ncdoj.gov'; 'beth.finnerty@ohioattorneygeneral.gov'; 'Liz.Maag@ohioattorneygeneral.gov'; 'Patrice.Fatig@ohioattorneygeneral.gov'; 'jbetsko@attorneygeneral.gov'; 'sscannell@attorneygeneral.gov'; 'SOAllen@oag.state.va.us'; 'thenry@oag.state.va.us'; Meier, Markus H.; Albert, Bradley Scott; Schmidt, J. Maren; Weingarten, James; Flint, Phoebe; Tuttle, Bryce  
**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Armine,

There is no written "IT report" to produce. We hired an IT vendor, Capsicum Group, LLC, to forensically image Mr. Shkreli's devices, including his corporate phone. Capsicum initially reported to us that, because it was prompted to "set up" the phone upon turning it on, the phone was likely factory reset. That was the information available to us at the time of our meet and confer session on June 8, 2020, in which we told you of this understanding. We confirmed this in our June 16, 2020 letter to you.

In a subsequent consultation with Capsicum about the corporate phone, Capsicum told us that based on the new condition of the phone, it is possible that the phone was never set up in the first place. This is consistent with the fact that no text messages have been produced by any other party, including Vyera (which backs up its employees' phones to the cloud), to or from Mr. Shkreli's corporate phone.

AJ

**Andrew John (AJ) Rudowitz**

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 Duane Morris LLP  
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**From:** Black, Armine <ablack1@ftc.gov>  
**Sent:** Wednesday, May 12, 2021 6:52 PM  
**To:** Rudowitz, Andrew J. <AJRudowitz@duanemorris.com>; Casey, Christopher H. <CHCasey@duanemorris.com>; Pollack, Jeffrey S. <JSPollack@duanemorris.com>; Kulik, Sarah O'Laughlin <sckulik@duanemorris.com>; Kaufman, Noah J. <noah.kaufman@morganlewis.com>; 'Nicholas A. Rendino' <nrendino@kasowitz.com>  
**Cc:** 'Michael.Goldsmith@doj.ca.gov' <Michael.Goldsmith@doj.ca.gov>; 'Laura.Namba@doj.ca.gov' <Laura.Namba@doj.ca.gov>; 'Richard.Schultz@Illinois.gov' <Richard.Schultz@Illinois.gov>; 'jeremy.kasha@ag.ny.gov' <jeremy.kasha@ag.ny.gov>; 'saami.zain@ag.ny.gov' <saami.zain@ag.ny.gov>; 'arlene.leventhal@ag.ny.gov' <arlene.leventhal@ag.ny.gov>; 'ksturgis@ncdoj.gov' <ksturgis@ncdoj.gov>; 'Jsutton2@ncdoj.gov' <Jsutton2@ncdoj.gov>; 'beth.finnerty@ohioattorneygeneral.gov' <beth.finnerty@ohioattorneygeneral.gov>; 'Liz.Maag@ohioattorneygeneral.gov' <Liz.Maag@ohioattorneygeneral.gov>; 'Patrice.Fatig@ohioattorneygeneral.gov' <Patrice.Fatig@ohioattorneygeneral.gov>; 'jbetsko@attorneygeneral.gov' <jbetsko@attorneygeneral.gov>; 'sscannell@attorneygeneral.gov' <sscannell@attorneygeneral.gov>; 'SOAllen@oag.state.va.us' <SOAllen@oag.state.va.us>; 'thenry@oag.state.va.us' <thenry@oag.state.va.us>; Meier, Markus H. <MMEIER@ftc.gov>; Albert, Bradley Scott <BALBERT@ftc.gov>; Schmidt, J. Maren <mschmidt@ftc.gov>; Weingarten, James

<jweingarten@ftc.gov>; Flint, Phoebe <pflint@ftc.gov>; Tuttle, Bryce <btuttle@ftc.gov>

**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Counsel,

Thanks for the M&C. As we mentioned during the call, this is the first time we were informed of the existence of an IT report relating to Shkreli's Vyera-issued cell phone. Please produce the report to Plaintiffs by close of business tomorrow.

Armine  
(they/them)

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**From:** Black, Armine

**Sent:** Tuesday, May 11, 2021 4:44 PM

**To:** Rudowitz, Andrew J. <[AJRudowitz@duanemorris.com](mailto:AJRudowitz@duanemorris.com)>; Casey, Christopher H. <[CHCasey@duanemorris.com](mailto:CHCasey@duanemorris.com)>;

Pollack, Jeffrey S. <[JSPollack@duanemorris.com](mailto:JSPollack@duanemorris.com)>; Kulik, Sarah O'Laughlin <[sckulik@duanemorris.com](mailto:sckulik@duanemorris.com)>

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<[jeremy.kasha@ag.ny.gov](mailto:jeremy.kasha@ag.ny.gov)>; 'saami.zain@ag.ny.gov' <[saami.zain@ag.ny.gov](mailto:saami.zain@ag.ny.gov)>; 'arlene.leventhal@ag.ny.gov'

<[arlene.leventhal@ag.ny.gov](mailto:arlene.leventhal@ag.ny.gov)>; 'ksturgis@ncdoj.gov' <[ksturgis@ncdoj.gov](mailto:ksturgis@ncdoj.gov)>; 'Jsutton2@ncdoj.gov'

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'sscannell@attorneygeneral.gov' <[sscannell@attorneygeneral.gov](mailto:sscannell@attorneygeneral.gov)>; 'SOAllen@oag.state.va.us'

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Albert, Bradley Scott <[BALBERT@ftc.gov](mailto:BALBERT@ftc.gov)>; Schmidt, J. Maren <[mschmidt@ftc.gov](mailto:mschmidt@ftc.gov)>; Weingarten, James

<[jweingarten@ftc.gov](mailto:jweingarten@ftc.gov)>; Flint, Phoebe <[pflint@ftc.gov](mailto:pflint@ftc.gov)>; Tuttle, Bryce <[btuttle@ftc.gov](mailto:btuttle@ftc.gov)>

**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

AJ,

The legal basis for the motion is Rule 37(e). The factual basis is Shkreli's failure to preserve and produce documents from his corporate phone and contraband prison phone. The sanctions we plan to seek include an adverse inference under Rule 37(e)(2) that Shkreli was continuously involved in Vyera's business and engaged in the challenged conduct to restrain competition or, at least, an order under Rule 37(e)(1) preventing Shkreli from offering evidence on these issues.

Armine  
(they/them)

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**From:** Rudowitz, Andrew J. <[AJRudowitz@duanemorris.com](mailto:AJRudowitz@duanemorris.com)>

**Sent:** Tuesday, May 11, 2021 3:17 PM

**To:** Black, Armine <[ablack1@ftc.gov](mailto:ablack1@ftc.gov)>; Casey, Christopher H. <[CHCasey@duanemorris.com](mailto:CHCasey@duanemorris.com)>; Pollack, Jeffrey S.

<[JSPollack@duanemorris.com](mailto:JSPollack@duanemorris.com)>; Kulik, Sarah O'Laughlin <[sckulik@duanemorris.com](mailto:sckulik@duanemorris.com)>

**Cc:** 'Michael.Goldsmith@doj.ca.gov' <[Michael.Goldsmith@doj.ca.gov](mailto:Michael.Goldsmith@doj.ca.gov)>; 'Laura.Namba@doj.ca.gov'

<[Laura.Namba@doj.ca.gov](mailto:Laura.Namba@doj.ca.gov)>; 'Richard.Schultz@Illinois.gov' <[Richard.Schultz@Illinois.gov](mailto:Richard.Schultz@Illinois.gov)>; 'jeremy.kasha@ag.ny.gov'

<[jeremy.kasha@ag.ny.gov](mailto:jeremy.kasha@ag.ny.gov)>; 'saami.zain@ag.ny.gov' <[saami.zain@ag.ny.gov](mailto:saami.zain@ag.ny.gov)>; 'arlene.leventhal@ag.ny.gov'

<[arlene.leventhal@ag.ny.gov](mailto:arlene.leventhal@ag.ny.gov)>; 'ksturgis@ncdoj.gov' <[ksturgis@ncdoj.gov](mailto:ksturgis@ncdoj.gov)>; 'Jsutton2@ncdoj.gov'

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'sscannell@attorneygeneral.gov' <[sscannell@attorneygeneral.gov](mailto:sscannell@attorneygeneral.gov)>; 'SOAllen@oag.state.va.us'

<[SOAllen@oag.state.va.us](mailto:SOAllen@oag.state.va.us)>; 'thenry@oag.state.va.us' <[thenry@oag.state.va.us](mailto:thenry@oag.state.va.us)>; Meier, Markus H. <[MMEIER@ftc.gov](mailto:MMEIER@ftc.gov)>;

Albert, Bradley Scott <[BALBERT@ftc.gov](mailto:ALBERT@ftc.gov)>; Schmidt, J. Maren <[mschmidt@ftc.gov](mailto:mschmidt@ftc.gov)>; Weingarten, James <[jweingarten@ftc.gov](mailto:jweingarten@ftc.gov)>; Flint, Phoebe <[pflint@ftc.gov](mailto:pflint@ftc.gov)>; Tuttle, Bryce <[btuttle@ftc.gov](mailto:btuttle@ftc.gov)>

**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Armine,

We are unclear as to the factual and legal grounds on which plaintiffs purport to seek sanctions for spoliation. Plaintiffs likewise do not state what sanctions they intend to seek. So we can prepare to address and confer on these issues, we ask that plaintiffs please provide the foregoing information by the end of the day.

AJ

**Andrew John (AJ) Rudowitz**

Associate  
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**From:** Rudowitz, Andrew J.

**Sent:** Tuesday, May 11, 2021 9:53 AM

**To:** 'Black, Armine' <[ablack1@ftc.gov](mailto:ablack1@ftc.gov)>; Casey, Christopher H. <[CHCasey@duanemorris.com](mailto:CHCasey@duanemorris.com)>; Kulik, Sarah O'Laughlin <[sckulik@duanemorris.com](mailto:sckulik@duanemorris.com)>

**Cc:** [Michael.Goldsmith@doj.ca.gov](mailto:Michael.Goldsmith@doj.ca.gov); [Laura.Namba@doj.ca.gov](mailto:Laura.Namba@doj.ca.gov); [Richard.Schultz@Illinois.gov](mailto:Richard.Schultz@Illinois.gov); [jeremy.kasha@ag.ny.gov](mailto:jeremy.kasha@ag.ny.gov); [saami.zain@ag.ny.gov](mailto:saami.zain@ag.ny.gov); [arlene.leventhal@ag.ny.gov](mailto:arlene.leventhal@ag.ny.gov); [ksturgis@ncdoj.gov](mailto:ksturgis@ncdoj.gov); [Jsutton2@ncdoj.gov](mailto:Jsutton2@ncdoj.gov); [beth.finnerty@ohioattorneygeneral.gov](mailto:beth.finnerty@ohioattorneygeneral.gov); [Liz.Maag@ohioattorneygeneral.gov](mailto:Liz.Maag@ohioattorneygeneral.gov); [Patrice.Fatig@ohioattorneygeneral.gov](mailto:Patrice.Fatig@ohioattorneygeneral.gov); [jbetsko@attorneygeneral.gov](mailto:jbetsko@attorneygeneral.gov); [sscannell@attorneygeneral.gov](mailto:sscannell@attorneygeneral.gov); [SOAllen@oag.state.va.us](mailto:SOAllen@oag.state.va.us); [thenry@oag.state.va.us](mailto:thenry@oag.state.va.us); Meier, Markus H. <[MMEIER@ftc.gov](mailto:MMEIER@ftc.gov)>; Albert, Bradley Scott <[BALBERT@ftc.gov](mailto:ALBERT@ftc.gov)>; Schmidt, J. Maren <[mschmidt@ftc.gov](mailto:mschmidt@ftc.gov)>; Weingarten, James <[jweingarten@ftc.gov](mailto:jweingarten@ftc.gov)>; Flint, Phoebe <[pflint@ftc.gov](mailto:pflint@ftc.gov)>; Tuttle, Bryce <[btuttle@ftc.gov](mailto:btuttle@ftc.gov)>

**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Armine,

We are available on Wednesday after 4pm.

AJ

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---

**From:** Black, Armine <[ablack1@ftc.gov](mailto:ablack1@ftc.gov)>

**Sent:** Monday, May 10, 2021 7:06 PM

**To:** Casey, Christopher H. <[CHCasey@duanemorris.com](mailto:CHCasey@duanemorris.com)>; Rudowitz, Andrew J. <[AJRudowitz@duanemorris.com](mailto:AJRudowitz@duanemorris.com)>; Feldman, Brett M. <[BMFeldman@duanemorris.com](mailto:BMFeldman@duanemorris.com)>; Kulik, Sarah O'Laughlin <[sckulik@duanemorris.com](mailto:sckulik@duanemorris.com)>

**Cc:** [Michael.Goldsmith@doj.ca.gov](mailto:Michael.Goldsmith@doj.ca.gov); [Laura.Namba@doj.ca.gov](mailto:Laura.Namba@doj.ca.gov); [Richard.Schultz@Illinois.gov](mailto:Richard.Schultz@Illinois.gov); [jeremy.kasha@ag.ny.gov](mailto:jeremy.kasha@ag.ny.gov); [saami.zain@ag.ny.gov](mailto:saami.zain@ag.ny.gov); [arlene.leventhal@ag.ny.gov](mailto:arlene.leventhal@ag.ny.gov); [ksturgis@ncdoj.gov](mailto:ksturgis@ncdoj.gov); [Jsutton2@ncdoj.gov](mailto:Jsutton2@ncdoj.gov); [beth.finnerty@ohioattorneygeneral.gov](mailto:beth.finnerty@ohioattorneygeneral.gov); [Liz.Maag@ohioattorneygeneral.gov](mailto:Liz.Maag@ohioattorneygeneral.gov); [Patrice.Fatig@ohioattorneygeneral.gov](mailto:Patrice.Fatig@ohioattorneygeneral.gov); [jbetsko@attorneygeneral.gov](mailto:jbetsko@attorneygeneral.gov); [sscannell@attorneygeneral.gov](mailto:sscannell@attorneygeneral.gov); [SOAllen@oag.state.va.us](mailto:SOAllen@oag.state.va.us); [thenry@oag.state.va.us](mailto:thenry@oag.state.va.us); Meier, Markus H. <[MMEIER@ftc.gov](mailto:MMEIER@ftc.gov)>; Albert, Bradley Scott <[BALBERT@ftc.gov](mailto:ALBERT@ftc.gov)>; Schmidt, J. Maren <[mschmidt@ftc.gov](mailto:mschmidt@ftc.gov)>; Weingarten, James <[jweingarten@ftc.gov](mailto:jweingarten@ftc.gov)>; Flint, Phoebe <[pflint@ftc.gov](mailto:pflint@ftc.gov)>; Tuttle, Bryce <[btuttle@ftc.gov](mailto:btuttle@ftc.gov)>

**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Counsel,

Thank you for your letter. Plaintiffs plan to file a motion requesting spoliation sanctions against Defendant Shkreli. Per Judge Cote's Individual Practices 2.C, we'd like to meet and confer before we file the motion. Plaintiffs are available to meet after 4 pm on Wednesday or Thursday. Please let us know your availability.

Armine  
(they/them)

---

**From:** Casey, Christopher H. <[CHCasey@duanemorris.com](mailto:CHCasey@duanemorris.com)>

**Sent:** Monday, March 8, 2021 4:55 PM

**To:** Black, Armine <[ablack1@ftc.gov](mailto:ablack1@ftc.gov)>; Rudowitz, Andrew J. <[AJRudowitz@duanemorris.com](mailto:AJRudowitz@duanemorris.com)>; Feldman, Brett M. <[BMFeldman@duanemorris.com](mailto:BMFeldman@duanemorris.com)>; Kulik, Sarah O'Laughlin <[sckulik@duanemorris.com](mailto:sckulik@duanemorris.com)>; Kandis L. Kovalsky <[kkovalsky@khflaw.com](mailto:kkovalsky@khflaw.com)>

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**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Counsel:

Please see the attached correspondence.

Regards,

Chris




---

**From:** Black, Armine <[ablack1@ftc.gov](mailto:ablack1@ftc.gov)>

**Sent:** Thursday, February 18, 2021 7:30 PM

**To:** Casey, Christopher H. <[CHCasey@duanemorris.com](mailto:CHCasey@duanemorris.com)>; Rudowitz, Andrew J. <[AJRudowitz@duanemorris.com](mailto:AJRudowitz@duanemorris.com)>; Feldman, Brett M. <[BMFeldman@duanemorris.com](mailto:BMFeldman@duanemorris.com)>; Kulik, Sarah O'Laughlin <[sckulik@duanemorris.com](mailto:sckulik@duanemorris.com)>; Kandis L. Kovalsky <[kkovalsky@khflaw.com](mailto:kkovalsky@khflaw.com)>

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Noah J. <[noah.kaufman@morganlewis.com](mailto:noah.kaufman@morganlewis.com)>; Wilbur, Sarah E. Hsu <[sarah.wilbur@morganlewis.com](mailto:sarah.wilbur@morganlewis.com)>; Castaneda, Michelle M. <[michelle.castaneda@morganlewis.com](mailto:michelle.castaneda@morganlewis.com)>; Cravens, William S.D. <[william.cravens@morganlewis.com](mailto:william.cravens@morganlewis.com)>; [kathleen.kosiek@morganlewis.com](mailto:kathleen.kosiek@morganlewis.com); [Michael.Goldsmith@doj.ca.gov](mailto:Michael.Goldsmith@doj.ca.gov); [Laura.Namba@doj.ca.gov](mailto:Laura.Namba@doj.ca.gov); [RSchultz@atg.state.il.us](mailto:RSchultz@atg.state.il.us); [jeremy.kasha@ag.ny.gov](mailto:jeremy.kasha@ag.ny.gov); [saami.zain@ag.ny.gov](mailto:saami.zain@ag.ny.gov); [arlene.leventhal@ag.ny.gov](mailto:arlene.leventhal@ag.ny.gov); [ksturgis@ncdoj.gov](mailto:ksturgis@ncdoj.gov); [Jsutton2@ncdoj.gov](mailto:Jsutton2@ncdoj.gov); [beth.finnerty@ohioattorneygeneral.gov](mailto:beth.finnerty@ohioattorneygeneral.gov); [Liz.Maag@ohioattorneygeneral.gov](mailto:Liz.Maag@ohioattorneygeneral.gov); [Patrice.Fatig@ohioattorneygeneral.gov](mailto:Patrice.Fatig@ohioattorneygeneral.gov); [jbetsko@attorneygeneral.gov](mailto:jbetsko@attorneygeneral.gov); [sscannell@attorneygeneral.gov](mailto:sscannell@attorneygeneral.gov); [SOAllen@oag.state.va.us](mailto:SOAllen@oag.state.va.us); [thenry@oag.state.va.us](mailto:thenry@oag.state.va.us); Meier, Markus H. <[MMEIER@ftc.gov](mailto:MMEIER@ftc.gov)>; Albert, Bradley Scott <[BALBERT@ftc.gov](mailto:BALBERT@ftc.gov)>; Schmidt, J. Maren <[mschmidt@ftc.gov](mailto:mschmidt@ftc.gov)>; Perlman, Neal <[nperlman@ftc.gov](mailto:nperlman@ftc.gov)>; Flint, Phoebe <[pflint@ftc.gov](mailto:pflint@ftc.gov)>; Tuttle, Bryce <[btuttle@ftc.gov](mailto:btuttle@ftc.gov)>

**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Chris:

Please see the attached correspondence.

Armine  
(they/them)

---

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**Sent:** Thursday, February 4, 2021 3:58 PM

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**Subject:** RE: FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Counsel:

Please see the attached correspondence.

Regards,

Chris



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**Subject:** FTC et al. v. Vyera et al. - Shkreli Preservation of Documents

Counsel:

Please see the attached correspondence.

Thanks,  
Armine

**Armine Black (they/them)**

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